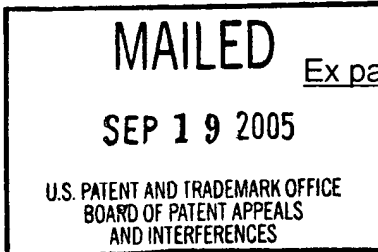


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte LOUIS BOUCHARD and DUSTIN M. DONALDSON

Application No. 09/697,113

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on August 12, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Appellant filed an Appeal Brief on December 17, 2004. Page 1 of the brief states that the brief is being filed under the 41.37 *New Rules of Practice Before the BPAI*, however, the brief is missing two of the appendix headings required under 37 CFR § 41.37(c) (appendix headings **(ix.) Evidence Appendix** and **(x.) Related Proceedings Appendix**). The new rules require all of the appendix headings whether there is information pertaining to a specific heading or not, and if not, the word "None" should be placed below the respective heading.

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By contrast, the Examiner's Answer mailed April 8, 2005, was drafted under 37 CFR § 1.192(c) and does not comply with the headings as set forth in the new rules under 37 CFR § 41.37(c).

Another matter that needs to be addressed by the examiner is the Information Disclosure Statements (IDSs) filed on June 6, 2002, and August 19, 2004. The examiner has not initialed next to each of the references nor signed and dated the form 1449 as required by the Manual of Patent Examining Procedure (MPEP) § 609 C(2). Also the IDS on March 29, 2004 has not been properly acknowledged. Although the examiner has initialed next to each of the references on the 1449 as required, the examiner has not signed and dated the form.

Accordingly, it is

ORDERED that the application is returned to the Examiner

1) to notify appellants of a defective brief and require the filing of a supplemental Appeal Brief which includes the appendix headings missing in the original brief as noted above;

2) for consideration of the supplemental Appeal Brief, to vacate the Examiner's Answer mailed March 16, 2005, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;

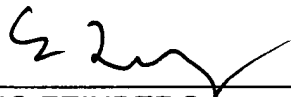
3.) for proper consideration of the IDSs filed June 6, 2002; August 19, 2004, and March 29, 2004;

4.) to mail a copy of the considered IDS to appellant, and

5.) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



CRAIG FEINBERG
Program and Resource Administrator
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CF/vsh

Application No. 09/697,113

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